

United States District Court
Southern District of Texas
FILED

OCT 06 2015

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT FOR THE

Philip Westerman
Plaintiff(s)

vs.
Department of Homeland Security
Customs and Border Protection

Defendant(s),

Wrongful Termination

COMPLAINT

7:16cv94

Parties to this Complaint:

Plaintiff's Name, Address and Phone Number

Philip Westerman
3909 Thunderbird Ave.
McAllen, TX 78504 (956) 222-4329

Defendant's Name, Address and Phone Number

Department of Homeland Security - Customs and Border Protection
1300 Pennsylvania Ave. N.W.
Washington, D.C. 20229

Defendant's Name, Address and Phone Number

Department of Homeland Security - Customs and Border Protection
Chief Patrol Agent, Rio Grande Valley Sector
Office of Border Patrol
4400 South Expressway 281
Edinburg, TX 78542-2621

1 Defendant's Name, Address and Phone Number

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5 (If you have more defendants, list them using the same outline on another piece of paper.
6 Attach additional sheets, if necessary)

7 **Jurisdiction**

(Reason your case is being filed in federal court)

8 The Case is against a United States Federal Agency
9
10
11

12 **Statement of Claim:**

(State here as briefly as possible the facts of your case.)

13
14 Since July 2013 I, Philip Westerman, have been without
15 compensation from U.S. Border Patrol as a Border Patrol Agent.
16 On October 31st 2014 terminated from my position wrongfully.
17 The two charges cited by Chief Kevin Oaks were: 1) Conduct
18 Unbecoming of a Border Patrol Agent and 2) Lack of Candor.
19 Chief Oaks attempts to embolden his charges by writing,
20 "I also considered that your misconduct, and subsequent
21 arrest gained significant notoriety which could have
22 negatively impacted the Agency's reputation."

23 The difficulty with this statement is that it was
24 not me who brought the false allegations to me and
25 the agency. Yet I have been used as the "Sacrificial Lamb."
During the initial investigation I was asked if there
was any sexual contact between me and the detainee.
I answered, "NO" And still contend the answer to be
the same. The detainee attempted to create sexual
contact with me by thrusting her heel into my crotch

Statement of Claim

(continued):

but the advance was neither accepted nor returned. It only caused to irritate an age related medical condition. The tremendous pain in my groin and side was only later relieved by privately ejaculating into the restroom toilet and cleaning up with a wash cloth. This wash cloth was later used against me with charges from the detainee that first I had raped her, then it was sexual aggression. Anytime she was given opportunity to answer questions her story would change. A rape kit was taken with negative results. A grand jury was also given opportunity to take it to trial but they threw it out. Chief Oaks, however, states, "I do not believe your conduct can be rehabilitated..." as if I actually was a sexual offender. Yet just prior to this statement he writes, "... you have over four years of service with The Agency." And, "I noted that you have not been previously disciplined and have received successful performance ratings."

I have been an outstanding citizen all my life. This is why I chose to be part of an outstanding agency. I am an Elder, worship co-ordinator and Health Leader in my church. I continuously help others in my

Statement of Claim

(continued):

Community and work very hard to provide for my family. I was becoming ~~a~~^a great at my job as a Border Patrol Agent and loving it. My records for capturing illegal aliens in the brush, on traffic Patrol and at the check point was growing rapidly. Not to mention my ability to spot large amounts of illegal drug trafficking and arrest them.

The issue that has most negatively impacted the Agency's reputation lately is Border Patrol leaders lack of support for agents who have been wrongfully accused. To briefly explain this reputation: They would rather terminate good agents then stand up and fight with them against false allegations and accusations brought against them.

I desire to be an administrative agent if only to help stop this injustice of The Agency against their employees. My conduct in society and on the job serious and reliable. The illegal alien who brought the allegations could have had a vendetta for me since I was the one who intercepted her on a bus attempting to further her illegal immigration past the check point south of Falfurrias Texas.

Statement of Claim

(continued):

My Conduct in the restroom, though seemingly "unbecoming", was the best private way to alleviate the pain of a medical condition which was aggravated. My conduct with an investigator was honest with every question; Both in the initial interview, where Special Agent Della J. Saenz, refused to sign that she was there taking notes and then when she questioned me personally a year later from the original questions of the investigator.

The Agency has suffered nothing due to these wrongful charges yet myself and my family have suffered much. Chief Oaks, through wrongful termination act, has put such a blot on my employment record that recovery is near impossible, unless something in the record be changed.

I, Philip Westerman, have abided by all Border Patrol Policies and Procedures. I have conducted myself with all reasonableness and am asking for justification of my human rights as a United States Citizen and employee of the United States Federal Government. I have suffered greatly due to this wrongful discharge as I have not violated any policy or procedure worthy of termination from employment.

Relief:


(State briefly exactly what you want the court to do for you)

I am seeking restitution for my losses. First ~~I~~ am requesting full compensation for back pay along with interest. Also I am seeking Nonpecuniary losses for emotional harm/pain, suffering, inconvenience, mental anguish, loss of enjoyment of life. Injury to Personal standing along with injury to character and reputation. Then comes anxiety-stress-sleeplessness-marital strain and humiliation. Further, should I not be reinstated, I request front pay with future pecuniary losses.

Jury Demand:

(Optional)

Oct. 1st 2015
Date


Signature of Plaintiff